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10/815,597	04/01/2004	Leopold von Keudell	PWNOP0102US	9677

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EXAMINER

TADESSE, YEWEBDAR T

ART UNIT	PAPER NUMBER
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1734

DATE MAILED: 04/14/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/815,597

Applicant(s)

KEUDELL ET AL.

Examiner

Yewebdar T. Tadesse

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-16 and 18-22 is/are rejected.
- 7) ☒ Claim(s) 17 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter, which the applicant regards as his invention.

2. Claims 12 and 22 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 12 contains the following trademarks/trade names: Teflon. Where a trademark or trade name is used in a claim as a limitation to identify or describe a particular material or product, the claim does not comply with the requirements of 35 U.S.C. 112, second paragraph. See *Ex parte Simpson*, 218 USPQ 1020 (Bd. App. 1982). The claim scope is uncertain since the trademark or trade name cannot be used properly to identify any particular material or product. A trademark or trade name is used to identify a source of goods, and not the goods themselves. Thus, a trademark or trade name does not identify or describe the goods associated with the trademark or trade name. In the present case, the trademark/trade name is used to identify/describe the material made from and, accordingly, the identification/description is indefinite. Appropriate correction is required.

A broad range or limitation together with a narrow range or limitation that falls within the broad range or limitation (in the same claim) is considered indefinite, since the resulting claim does not clearly set forth the metes and bounds of the patent protection desired. See MPEP § 2173.05(c). Note the explanation given by the Board

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of Patent Appeals and Interferences in *Ex parte Wu*, 10 USPQ2d 2031, 2033 (Bd. Pat. App. & Inter. 1989), as to where broad language is followed by "such as" and then narrow language. The Board stated that this can render a claim indefinite by raising a question or doubt as to whether the feature introduced by such language is (a) merely exemplary of the remainder of the claim, and therefore not required, or (b) a required feature of the claims. Note also, for example, the decisions of *Ex parte Steigewald*, 131 USPQ 74 (Bd. App. 1961); *Ex parte Hall*, 83 USPQ 38 (Bd. App. 1948); and *Ex parte Hasche*, 86 USPQ 481 (Bd. App. 1949). In the present instance, claim 12 recites the broad recitation plastic material, and the claim also recites PVC, POM or Teflon, which is the narrower statement of the range/limitation. Claim 22 also recites the broad recitation metal, and the claim also recites alloy steel, which is the narrower statement of the range/limitation.

It is also noted in claims 12 and 22, the term "preferably" (see lines 4 and 3 respectively) renders the claims indefinite.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) The invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

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4. Claims 1-16 and 18-22 are rejected under 35 U.S.C. 102(e) as being anticipated by Ainsworth et al (US 6,821,346).

With respect to claims 1-2 and 13, Ainsworth et al discloses (see Figs 2, 6A and 6B and column 10, lines 8-35) a device for cleaning a powder coating booth (blow-off air plenum) with a first air distribution batten that is provided for the floor of the powder coating booth blowing excess powder in the direction of the suction slot (air plenum 100 with a pressurized air for the floor of the coating booth 2 moving excess powder in the direction of the suction holes 28 and slots 27). Ainsworth et al further discloses a second air distribution batten and a third air distribution batten (see Figs 2 and 2A, air plenum 34 provided for the sides of the powder coating booth to blow excess powder in the direction of the suction slot of the second suction channel (vertical duct 20 with holes 120).

As to claim 3, Ainsworth et al discloses (see Figs 6A and 6B and column 9, lines 52-61) air distribution batten consists of subsections (blow-off air plenum 100 positioned along the slopes sides 102, 104 of the plate 26) through which air can be blown out independently of the others.

Regarding claims 4-5 and 10, Ainsworth et al discloses (see Fig 2 and column 10, lines 13-16) air distribution batten (air plenum 100) in communication with a container for a supply of compressed air (source 36) and provided with a valve 37 controlling the flow of pressurized air.

As to claims 6-7, in Ainsworth et al's device (see Fig 6B) nozzles (air jets 112) are capable of producing air-steam that can be oriented at right angles to the longitudinal axis of the air distribution batten (air plenum 100) or parallel to the floor.

With respect to claims 8-9 and 11, in Ainsworth et al (see Figs 6A and 6B) the plenum 100, having nozzles arranged in groups (air jets 112 extending through plenum 100 and air outlets or jets 35 along the length of plenum 34), is positioned on both sides of the longitudinal axis or the length of the floor.

As to claims 12 and 22, Ainsworth et al discloses (see column 10, lines 24-26) the air distribution batten (air plenum 100) made of any suitable material including metal or plastic (non-metal) materials.

Regarding claim 15, in Ainsworth et al (see Figs 2 and 2A) the first and the second suction channel provided with a suction slot (holes 28 and slots 27 and vertical duct 20 with holes 120) extend along the long side of the powder coating booth.

With respect to claims 16 and 18, Ainsworth et al discloses (see Fig 3 and column 11, lines 41-51) an oblique surface (side portion 22) between the side (wall 4) and the floor (plate 26 of the floor) and the 2nd and 3rd air distribution battens (air plenums 34) arranged above the oblique surface (22) and nozzles (air jets 35) that are capable of producing air-steam that can be oriented parallel to the oblique surface (22).

As to claim 19, in Ainsworth et al (see Fig 2, 6A and 6B) the air distribution batten (air plenum 100) is arranged at the center of the floor of the powder coating booth.

With respect to claim 20, in Ainsworth et al the second air distribution batten (air plenum 34) is integrated into a sidewall of the powder coating booth and constitutes a flush surface therewith (see Fig 3 and column 11, line 52).

As to claim 21, Ainsworth et al's device is capable of being designed in a manner that the air stream produced by the nozzles (air jets 112 and 35) is smaller than the airstream sucked out of the booth.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

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7. Claims 1-15 and 20-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Reiss (US 5,861,062) in view of Ainsworth et al (US 6,821,346) or Fischli et al (US 5,690,995).

As to claims 1-2 and 13-15, Reiss discloses (see Fig 2 and column 4, lines 41-48) a device for cleaning a powder coating booth (device for extraction of excess paint-powder) with a first air distribution batten that is provided for the floor of the powder coating booth blowing excess powder in the direction of the suction slot (a fluid plate 24 with a compressed air for the floor of the coating booth 1 moving excess powder in the direction of the orifice 25 of the suction-extraction device 12). Reiss lacks teaching a second air distribution batten and a third air distribution batten provided for the sides of the powder coating booth to blow excess powder in the direction of the suction slot of the second suction channel. Ainsworth et al discloses a second air distribution batten and a third air distribution batten (see Fig s 2 and 2A, air plenum 34 provided for the sides of the powder coating booth to blow excess powder in the direction of the suction slot of the second suction channel (vertical duct 20 with holes 120). Fischli et al also discloses (see Figs 1 and 7 and column 8, lines 25-35) air nozzles (150) arranged about the entire inner booth wall circumference and suction slots (suction holes 68 disposed between the side and the floor of the coating booth and extends along the long side of the booth), wherein the powder blown by the air nozzle is capable of being pushed in the direction of the suction slots. It would have been obvious to one of ordinary skill in the art at the time the invention was made to include a second air distribution batten and a third air distribution batten provided for the sides of the powder coating booth to blow

excess powder in the direction of the suction slot of the second suction channel in Reiss to facilitate the removal of excess powder.

As to claims 3, 8-9 and 11, Reiss's air distribution batten provided with nozzles (fluid plates 24 with holes arranged in groups) consists of subsections (see sections of the plate on opposite sides of the floor along the longitudinal axis or length of the floor) through which air can be blown out independently of the others (see Fig 2).

Regarding claims 4-5 and 10, Reiss lacks teaching a container for a supply of compressed air and a valve controlling the air distribution batten. Ainsworth et al discloses (see Fig 2 and column 10, lines 13-16) air distribution batten (air plenum 100) in communication with a container for a supply of compressed air (source 36) and provided with a valve 37 controlling the flow of pressurized air. It would have been obvious to one of ordinary skill in the art at the time the invention was made to include a container for a supply of compressed air in Reiss to feed pressurized air to the fluid plate. It would have been obvious to one of ordinary skill in the art at the time the invention was made to include a valve in Reiss to regulate the feeding rate of a compressed air through the fluid plate.

As to claims 6-7, in Reiss (see Fig 2) nozzles (holes of the fluid plate 24) are capable of producing air-steam that can be oriented at right angles to the longitudinal axis of the air distribution batten (fluid plate 24) or parallel to the floor.

As to claims 12 and 22, Reiss lacks teaching the material the distribution batten (fluid plate) is made from. Ainsworth et al discloses (see column 10, lines 24-26) the air distribution batten (air plenum 100) made of any suitable material including metal or

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plastic (non-metal) materials. It would have been obvious to one of ordinary skill in the art at the time the invention was made to include an air distribution batten made of suitable metal or non-metal materials to meet the desired strength.

With respect to claim 20, Reiss lacks teaching a second air distribution batten integrated into a sidewall of the powder coating booth. Ainsworth et al discloses a second air distribution batten (air plenum 34) is integrated into a sidewall of the powder-coating booth and constitutes a flush surface therewith (see Fig 3 and column 11, line 52). It would have been obvious to one of ordinary skill in the art at the time the invention was made to include second air distribution batten integrated into a side wall of the powder coating booth having a flush surface therewith to eliminate the accumulation of powder along the wall of the coating booth.

As to claim 21, Reiss's device as modified is capable of being designed in a manner that the air stream produced by the nozzles (air jets 112 and 35) is smaller than the airstream sucked out of the booth.

Allowable Subject Matter

8. Claim 17 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The following is a statement of reasons for the indication of allowable subject matter: Ainsworth et al discloses an oblique surface (22), however lacks teaching a beveled edge for the oblique surface (22). Prior art of record does not disclose or suggest a


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device for cleaning a powder coating booth, comprising, among others, an oblique surface provided with a beveled edge enclosing an acute angle with the floor.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Yewebdar T. Tadesse whose telephone number is (571) 272-1238. The examiner can normally be reached on Monday-Friday 8:00 AM-4: 30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chris Fiorilla can be reached on (571) 272-1187. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


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